

In the Disclosure

Please replace the paragraph at page 12 from lines 3-14 with the following:

“Oligonucleotide probes or primers of the present invention may be of any suitable length, depending on the particular assay format and the particular needs and targeted genomes employed. In general, the oligonucleotide probes or primers are at least 12 nucleotides in length, preferably between 15 and 24 ~~molecules~~ nucleotides, and they may be adapted to be especially suited to a chosen nucleic acid amplification system. As commonly known in the art, the oligonucleotide probes and primers can be designed by taking into consideration the melting point of hybridization thereof with its targeted sequence (see below and in Sambrook et al., 1989, Molecular Cloning -A Laboratory Manual, 2nd Edition, CSH Laboratories; Ausubel et al., 1989, in Current Protocols in Molecular Biology, John Wiley & Sons Inc., N.Y.).”

Remarks

The disclosure has been amended at page 12 to correct the typographical error at line 7, “between 15 and 24 molecules”. Support for this should be recognized by the skilled artisan, as well as by page 12 starting with line 5 and at page 34, lines 1-4.

Claims 4-6, 9-11, 24, 26, and 35 to 49 are now pending in the application, with claims 4, 6 and 24 being the independent claims. Claim 6 has been amended, and claims 43 to 49 are newly presented. The instant amendments are believed to introduce no new matter.

Support for the amendments to the claims can be found throughout the specification as well as in the claims as originally filed. More specifically, we direct the Examiner’s attention to page 12 of the disclosure. Indeed, page 12, line 6, gives literal support for “at least 12 nucleotides.” Support for the recitation “associated with a non-malignant prostatic state” in claim 6 is found throughout the disclosure and in claim 4. More specific support for new claim 43 is found at page 12, line 6, at page 34, lines 1-4, as well as in claim 6, as originally filed. More specific support for claim 44 is found at page 12, line 7. Support for new claims 48 and 49 is found, for example, starting at page 44, line 26, to page 45, line 3, as well as page 45 between lines 19-23.

Applicants thank the Examiner for the withdrawal of the rejection of claims 4, 5, 10, 11, 24, 35 and 36 under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement.

Applicants also thank the Examiner for the withdrawal of the rejection of claims 6 and 9 under 35 U.S.C. § 102 as allegedly being anticipated by U.S. Patent No. 6,528,260 of Blumfeld.

Rejections Under 35 U.S.C. § 112, first paragraph

The rejection of claims 6 and 9 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement is respectfully traversed.

The Examiner is of the opinion that the recitation “11” in claim 6 “was not described in a such a way as to reasonably convey to one skilled artisan in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner further alleges that page 34 “does not have support for “11”. Applicants respectfully disagree. In accordance with U.S. practice and jurisprudence, literal support is not a requirement *per se*. Applicants respectfully submit that the recitation “at least 10 consecutive nucleotides” comprises “at least “11”, “at least 12,” etc. Applicants respectfully submit that the skilled artisan would find “at least 11” to be fully supported by the application.

In any event, solely to expedite prosecution, Applicants have replaced “11” by “12.” This amendment is made without prejudice or disclaimer and should not be taken as acquiescence to the rejection.

Accordingly, reconsideration and withdrawal of the rejection of claims 6 and 9 under 35 U.S.C. § 112, first paragraph, is respectfully requested.

Conclusion

Prompt and favorable consideration of this Amendment is respectfully requested. Applicants believe the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Cynthia M. Bouchez
Attorney for Applicants
Registration No. 47,438

Date: Dec. 18, 2006
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600